



Ethics News

A Quarterly Update For State Ethics Advisors (SEAs)

APRIL 2006

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-- Requirements When Providing Ethics Guidance

WHO IS THIS? P. Dwight Holman, Deputy Chief for Management (DCH MGT). RIGHT?



WRONG. When issuing ethics advice, guidance or policy, he is the **DEO** (Designated Ethics Official), not the DCH MGT. That is, he must use the Ethics title "DEO", versus Deputy Chief for Management.

Similarly, when providing ethics advice and guidance, a certified SEA must use the 'State Ethics Advisor' title. [See [GM 110 Part 405.25\(d\)](#).] Also, note that SEAs are to have written guidance reviewed by the NRCS Ethics Office (EO) prior to issuance. This requirement may be waived in an advisor certification letter for a well-qualified advisor whose performance standards include the SEA responsibility as a critical element. SEAs are also encouraged to discuss verbal opinions with the EO prior to providing them to employees. [See [405.25\(k\)](#).]

-- Revised Training Requirements for CY 2006

NRCS no longer has a blanket requirement for non-Filers to complete Ethics training in CY 2006. This change is reflected in the recent revision to the Training section in the Ethics [GM, Title 110 Part 405.15](#). Previously we required all employees to complete in-person or USDA Internet-based ethics training modules every three years. (2000, 2003, 2006, etc.) Now, the requirement for annual ethics training only applies to Filers. Therefore, following completion of required initial training in the first 90 days, the State Conservationist will decide what ethics training non-Filers must complete annually thereafter. [Other training requirements such as training required for NRCS Liaisons to non-Federal entities are not affected by this change.]

Upcoming Reviews

This year the NRCS Ethics Office (EO) will conduct a series of polls and use other creative methods to review, assess and improve the Ethics program nationwide.

The first of these will begin in the next several weeks and focus on the requirements for Liaison letters and SEA training. Here is an advanced look at what you can expect.

DON'T REPLY YET.

But do get ready!

Problem areas will be referred to the RAC.

SEA TRAINING

- SEA has completed ALL requirements in GM 110 Part 405.15(e) through (j).
- SEA has not completed all requirements in 405.15.
- SEA is not familiar with 405.15,

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-- Reports on Employee Farming Interests

As many of you know, NRCS does not have ethics authority to require routine reports of employee's farming interests or interests of family members. This information has routinely been collected by NRCS using the CPA-1 Form. We will need to get approval for and publish an NRCS Ethics Supplement to include such a requirement to comply with the OGE provision at [5 CFR 2635.105](#).

I understand from the Easement Programs Division [Beth Schuler, HEL Manager] that all compliance review coordinators may be advised to cease using the CPA-1 form. The [National Food Security Act Manual, \(NFSAM\)](#), Part 518.03 currently requires that NRCS employees report this information annually by October 15. It is my understanding that this information is essential to our current process for identifying certain operations for review in Protracts. [518.03](#)

In 2005, the DEO advised the DCH Programs of the lack of authority to require these reports. It is important for you to know your role in this *as the SEA* if any questions arise. You should not seek to collect this information in your capacity as the SEA. However, as SEA we are not asking you to issue direction to prohibit use of the form. Guidance on requirements in the NFSAM are properly issued by the DCH PGMS. The Ethics Office position is to advise of the disconnect between the NFSAM requirement and 2635.105, and inform that if OGE learns of the unauthorized use of the form, OGE may order NRCS to stop pending review and approval consistent with 2635.105.

Ethics questions about this can be directed to [Caryl Butcher](#). Questions about the NFSAM or guidance being provided by EPD can be directed to Beth at beth.schuler@wdc.usda.gov.

-- New Instruction on Disqualification Due to Participation in the Regular CRP

All SEAs will want to review and understand the guidance in a new instruction signed February 27, 2006, before questions start to roll in. It clarifies the disqualification requirements when an employee, family member, etc. applies for **regular** CRP. Now that FSA performs almost all (but not all) pre-contract functions for regular CRP, the outcome when applying conflict of interests and impartiality criteria to determine the disqualification requirement due to an employee's interest in *regular* CRP will be different

-- LIAISON LETTERS

1. How many Liaison letters has your STC issued?

<input type="radio"/>	None.
<input type="radio"/>	1-5
<input type="radio"/>	6-10
<input type="radio"/>	11-15
<input type="radio"/>	16 or more

2. Has your STC issued a Liaison letter to the Tribal Liaison(s)?

<input type="radio"/>	Yes
<input type="radio"/>	No
<input type="radio"/>	State does not have Tribal Liaison(s)

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than for most other NRCS programs. The revised guidance also applies if an applicant is an employee's family member or has another covered relationship.

When ethics rules are properly applied, there are fewer limitations when the program is regular CRP versus EQIP, WRP, AMA, etc. The least restrictions occur with CSP and continuous CRP. Differences in the extent of disqualification required by program are due to differences in how the different programs operate. The differences in disqualification requirements apply to performing pre-contract functions on other's operations for the various Farm Bill programs. Regardless of the FB program, an employee must not provide TA on his own operation or that of a family member (or other with a covered relationship).

The Instruction includes specific examples showing when disqualification is required, and also explains how to request an ethics waiver if needed. See it at <http://policy.nrcs.usda.gov/scripts/lpsiis.dll/NI/NI.htm>

_ _ Look for Two New Standard Operation Procedures

We have recently published one new Standard Operation Procedure (SOP) and completed work on another which should be published in April 2006.

Non-Federal Travel Assistance. This SOP is now available in [GM Title 360 Part 404.121](#). It covers procedures for prior and post approval to accept outside travel assistance, and outlines the specific responsibilities of the traveler, SEA, STC, RAC and NRCS Ethics Office and DEO (DCH MGT).

Outside Employment. This SOP will list the responsibilities of employees and supervisors as well as SEAs and approving officials (i.e., STC or DCH MGT). It will also include an easy to use one-page form for employees to use to submit requests for approval. We will send the SEAs an email as soon as it is published.

Questions about Ethics SOPs should be directed to [Debra Griffin](#).

_ _ How to Determine Whether Work with a University Can Be Considered 'Official'

The USDA Office of Ethics (OE) issued guidance regarding whether work with a University can be considered 'official business' in [Ethics Issuance 04-2, Adjunct Professors](#). [June 17, 2004.] You will want to refer to 04-2 where we have a scientist or other

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employee working in partnership with a University or otherwise seeking to spend official time working for a University. It includes a form to be used as an aid in determining whether an employee's appointment by the university as adjunct professor constitutes outside employment (versus official business). Also, the completed form should accompany any request for approval to engage in outside employment with a college or university.

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The guidance in 04-2 has generated much concern among USDA scientists. This has led to two USDA Scientific Forums led by OE, and a promise to re-write the Ethics Issuance to provide additional clarification and explanation. If you have questions about this topic or would like an executive summary of key elements in that guidance, contact [Marcki Metcalf](#).

-- Ask the SEA or Ethics Office?

New NRCS policy guidance in [GM Title 110 Part 405.3](#), Administration of the NRCS Ethics Program, reflects our continued support for SEAs and encourages employees not to by-pass the SEA. The NRCS Ethics Office (EO) supports certified SEAs as the first point of contact for most ethics questions. The revision to 403.3 seeks to clarify when the EO will likely issue an opinion at the request of an employee versus referring the matter to the SEA. For example, it explains that the decision whether the EO will issue the opinion or refer it to the SEA generally takes into consideration the following factors:

- (1) The unique nature of the question and its precedential value;
- (2) The potential number of employees throughout NRCS affected by the question;
- (3) The frequency with which the question arises; and
- (4) The likelihood or presence of inconsistent interpretations on the same question by different ethics advisors.

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Other employee requests for guidance may be referred to the appropriate SEA to handle or to draft a reply for EO review. There is, however, one exception to this general rule. Upon written request from the employee, the EO will not refer requests regarding prospective employment (outside or post employment) without the employee's approval. Please direct questions on this to [Caryl Butcher](#).

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-- Visit Our Website

Use the [NRCS Ethics Website](#) as YOUR personal Ethics Resource Library. Visit soon and often to find links to all your ethics needs including:

- NRCS Ethics guidance and policy
- NRCS-specific opinions
- NRCS training presentations
- CY 2006 NRCS Ethics training schedule
- Calendar of Events (report due dates etc.)

... And, a host of other tools for employees and SEAs.

__ About "EthicsNews"

"Ethics News" is provided as a vehicle to inform and update SEAs about emerging ethics issues in NRCS. We hope you found the first issue helpful. SEAs requested that we publish an Ethics News update at the National NRCS Ethics Conference held in August 2005 in Orlando, FL. It was made part of the 2006 Business Plan, and will now be published on a quarterly basis.

The Ethics News will provide continuing education for SEAs that is both cost effective and mission related. Since the target audience is SEAs, articles assume understanding of basic ethics terminology, concepts and principles, as well as familiarity with standard acronyms for NRCS positions and programs. It is expected that each SEA will apply this knowledge of ethics concepts and principles to properly understand the issues being discussed. Questions and suggestions should be submitted to nrcs-ethics@wdc.usda.gov

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Questions on the Ethics Update content should be directed to the NRCS Ethics Office at [NRCS Ethics Office](#). If you are no longer the SEA, [click here to unsubscribe](#).